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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,510	09/16/2003	Gael Bouchy	242818US6	1360

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EXAMINER

BINDA, GREGORY JOHN

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/662,510

Applicant(s)

BOUCHY ET AL.

Examiner

Greg Binda

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 3, 4, 7 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 6, 8 and 10-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/8/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Election/Restrictions

1. Applicant's election with traverse of Species I (Fig. 5) in the response filed March 22, 2005 is acknowledged. The traversal is on the ground(s) that the restriction requirement failed to provide particular reasons for holding the "inventions" as claimed as either independent or distinct. This is not found persuasive because the *species* are considered independent and unless they are clearly unpatentable over each other, restriction is not only valid, its mandatory. Thus applicant has failed to submit a persuasive argument for overcoming the restriction requirement. See MPEP § 808.01(a).

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 3, 4, 7 & 9 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on March 22, 2005.

In the reply, claims 3 & 4 were identified as reading on the elected species, however the limitations therein do not read on the elected species. See page 15, lines 4+.

Drawings

3. The drawings are objected to because:

a. The drawings fail to show the limitations of claims 4 & 15-18.

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- b. Reference numerals 40, 52 are used to identify features in Fig. 5 and reused to identify modifications thereof in Figs. 6 & 7. Such usage is proscribed. See MPEP § 608.02(e).
4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The abstract of the disclosure is objected to because it is made up of more than one paragraph.

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6. The specification is objected to as failing to comply with 37 CFR 1.71 and 1.75(d)(1) because the detailed description fails to provide proper antecedent basis for the following claimed subject matter:

- a. Claim 1, lines 7 & 8: "arranged to be parallel to each other"
- b. Claim 1, lines 10-12: "arranged to be parallel to each other and parallel to the first fusible rupture members"

Claim Objections

7. Claim 18 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 12.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 1, 2, 5, 6, 8 & 10-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 1, lines 14-16 recite the limitation, "said second structural rupture members are designed to break only when the load applied to the decoupler device reaches a given predetermined load". The specification fails to disclose how this accomplished. Unlike the first rupture members 54 which are disclosed

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with weakened zones 64, the second rupture members 72 are disclosed with no such structure.

Therefore undue experimentation would be required of one skilled in the art to make and/or use second rupture members that break only when the load applied to the decoupler device reaches a given predetermined load.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 1, 2, 5, 6, 8 & 10-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "sufficient" in claim 1, line 18 is a relative term which renders the claim indefinite. The term "sufficient" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1, 2, 5, 6, 8 & 10-18 are rejected under 35 U.S.C. 102(b) as being anticipated by FR 2752024. Figs. 2, 3 & 7 show a tension decoupler device connecting two parts 14 & 15 of a

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structure and fitted with rupture members 17 & 38, the rupture of which cause decoupling of the parts when they break, the device comprising: a first set of fusible rupture members 17 arranged parallel to each other; and a second set structural rupture members 38 arranged parallel to each other and to the first fusible rupture members. Figs. 3 & 7 show the fusible rupture members 17 and the structural rupture members 38 are distributed around a circular flange 22.

14. Claims 1, 5, 6, 8, 10, 12, 13 & 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Petrie et al, US 3,395,857 (Petrie). Figs. 1 & 2 show a tension decoupler device connecting two parts 18 & 22 of a structure and fitted with rupture members 23, 30, the rupture of which cause decoupling of the parts when they break, the device comprising: a first set of fusible rupture members 23 arranged parallel to each other; and a second set structural rupture members 30 arranged parallel to each other and to the first fusible rupture members. Figs. 1 & 2 show the fusible rupture members 23 and the structural rupture members 30 are distributed around a circular flange 21 and that each fusible rupture member 23 is located between two structural rupture members 30.

15. Claims 1, 5, 10-12, 13 & 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Buckley et al, US 4,086,012 (Buckley). Figs. 1 & 2 show a tension decoupler device connecting two parts 36 & 38 of a structure and fitted with rupture members 50, 54, the rupture of which cause decoupling of the parts when they break, the device comprising: a first set of fusible rupture members 54 arranged parallel to each other; and a second set structural rupture members 50 arranged parallel to each other and to the first fusible rupture members. Figs. 1 & 2

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show the fusible rupture members 54 and the structural rupture members 50 are distributed around a circular flange 38.

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Petrie. Petrie shows all the limitations of the claim, but does expressly disclose the number of fusible and structural members being equal. However, applicant has not disclosed that having the numbers equal to each other solves any particular problem or is for any other particular purpose. Also, it appears the decoupling device would perform equally well with the numbers not being equal. As such, using equal numbers of fusible and structural member is deemed to be a design consideration which fails to patentably distinguish over the prior art to Petrie.

18. Claims 11 & 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buckley in view of Mulquin, US 3,304,031. Buckley shows first fusible rupture members 54, but does not expressly disclose each as having a reduced cross section or a removed portion. Mulquin shows fusible rupture members having removed portion (see Figs. 2, 3 & 7) and reduced cross section (see Figs. 4-6). In col. 1, lines 57-63, Mulquin teaches that a removed

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portion and/or reduced cross section provides a simple and inexpensive fusible member that ruptures under tension. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the decoupler device of Buckley by making the fusible rupture members with removed portions or reduced cross section in order to provide simple and inexpensive fusible members that rupture under tension as taught by Mulquin.

19. Claims 11 & 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petrie in view of Mulquin for the same reason noted immediately above.

Conclusion

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nixon and Decoux each show a decoupler device.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Binda whose telephone number is (571) 272-7077. The examiner can normally be reached on M-F 9:30 am to 7:00 pm with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Greg Binda", is positioned above the printed name.

Greg Binda
Primary Examiner
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